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10/066,085	01/31/2002	Gunther Silberbauer	GR-48	2432

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EXAMINER

DEUBLE, MARK A

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/066,085

Filing Date: January 31, 2002

Appellant(s): SILBERBAUER, GUNTHER

Friedrich Kueffner
For Appellant

EXAMINER'S ANSWER

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This is in response to the appeal brief filed January 31, 2005.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

U.S. Patent No, 6,315,107	Müller et al.	11/2001
U.S. Patent No, 5,678,813	Osako et al.	10/1997

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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Muller et al.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Osako et al.

Claims 1 and 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller et al.

Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osako et al.

These rejections were set forth in the prior Office Action, mailed on June 30, 2003. They are repeated and explained below.

Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Muller et al. (U.S. Patent No. 6,315,107)

Muller shows a device which can be used for collecting printed sheets in a certain sequence astride and atop one another to form a printed product that includes a saddle-shaped support formed by a first conveyor 2 that is configured to be supplied by a sheet feeder with printed sheets and a conveying device 3 arranged below the saddle-shaped support for transporting the products to a further processing step. The saddle-shaped support has a circulating traction mechanism formed by members 11, 19, 2a and 20 (see Fig. 7) and driving members 5 connected to the circulating traction mechanism so that the driving members act on the printed products to convey the printed products in a direction parallel to a conveying direction of the conveying device. Because the saddle-shaped support is arranged to be just slightly above the conveying device 3 at the transfer point, the freely suspended lateral parts of

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the printed products partially overlap the conveying device. Thus Muller et al. shows all the structure required by claims 1 and 4.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Osako et al. (U.S. Patent No. 5,678,813).

Osako shows a device which can be used for collecting printed sheets in a certain sequence astride and atop one another to form a printed product that includes a saddle-shaped support formed by a first conveyor 111 that is configured to be supplied by a sheet feeder with printed sheets and a conveying device 117 arranged below the saddle-shaped support for transporting the products to a further processing step (See Fig. 8). The saddle-shaped support has a circulating traction mechanism 111 and driving members 112 connected to the circulating traction mechanism so that the driving members act on the printed products to convey the printed products in a direction parallel to a conveying direction of the conveying device. Thus Osako et al. shows all the structure required by claims 1 and 4.

Claims 1 and 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller et al.

Muller et al. shows generally all that is required by the claims except for the rearward end of the saddle-shaped support connected fixedly to a device frame. While, no device frame is disclosed it is clear that both the forward and rear ends of the saddle-shaped support must be fixedly supported by some structure. It would have been obvious to one of ordinary skill in the art at the time of the invention to fixedly attach the rear end of the saddle-shaped support to a device frame. When this is done, Muller et al. would show all the structure required by claims 1 and 3-4.

Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osako et al.

Osako et al. shows generally all that is required by the claims except for the rearward end of the saddle-shaped support connected fixedly to a device frame. While, no device frame is disclosed it is clear that both the forward and rear ends of the saddle-shaped support must be fixedly supported by some structure. It would have been obvious to one of ordinary skill in the art at the time of the invention to fixedly attach the rear end of the saddle-shaped support to a device frame. When this is done, Osako et al. would show all the structure required by claims 1 and 3-4.

(10) Response to Argument

In regard to the rejection of claims 1 and 3-4 under 35 U.S.C. 102(e) and 103(a) over Mueller et al., applicant's representative argues that because the chains 2 and 3 have overlapping ends they are arranged behind one another rather than above one another as provided in the independent claim. While it is true that the saddle shaped support formed by the chain 2 is not arranged above the conveying device formed by the chain 3 in the same fashion illustrated in Fig. 1 of the present application, the chain 2 may still be viewed as being above the chain within a broad reasonable interpretation of the word above. This is because the upper surface of the chain 2 is above the upper surface of the chain 3 for at least a portion of their overlapping area. Specifically, the upper surface of the chain 2 is slightly above the surface of the chain 3 at least the line II-II as seen in Fig. 1 of Mueller. This meets the limitation of the claim 1 that the saddle shaped support formed by the chain 2 be above the conveying device formed by the chain 2 because the language of the claims does not require the entire saddle shaped support to be above

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the conveying device 3, but only requires a portion of the saddle shaped support to be above the conveying device.

Applicant's representative also argues that Muller fails to show a saddle-shaped support that is "configured to be supplied by a sheet feeder with printed sheets." This argument is not persuasive because the passive language of the claims merely requires that the saddle-shaped support be capable of receiving sheets from a sheet feeder. While Muller does not show what feeds sheets to the chain 2, it would clearly be capable of receiving sheets from some type of sheet feeder as required by the language of the claim.

Applicant's representative also argues that Muller does not show a saddle-shaped support comprising a circulating traction mechanism and driving members connected to the circulating traction mechanism or driving members acting on the printed products to convey the printed products in a direction parallel to a conveying direction of the conveying device. This argument is not persuasive because the members 5 clearly form driving members connected to the circulating traction mechanism 2 that act on the printed products to convey them in a direction parallel to a conveying direction of the conveying device 3 as required by the present invention.

Finally in regard to claim 3, applicant's representative argues that Muller does not show a device frame to which a rear end of the saddle shaped support is fixedly connected and that such a device frame would not have been obvious to one of ordinary skill in the art. This argument is not persuasive because, while Muller does not show a frame, some kind of support is clearly an inherent part of Muller. The use of a frame for fixedly supporting the saddle shaped support would have been obvious to one of ordinary skill in the art at the time of the invention.

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In regard to the rejection of claims 1 and 3 under 35 U.S.C. 102(e) and 103(a) over Osako et al., the arguments of the applicant's representative fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Specifically, applicant's representative argues broadly that the reference does not disclose or suggest a saddle-shaped support configured to be supplied by a sheet feeder with printed sheets in a certain sequence wherein the saddle-shaped support is arranged above a conveying device transporting the printed products to a further processing step as in the presently claimed invention. It should be noted, however, that each of these elements are shown in Osako et al. as was pointed out in section 4 of the rejection of June 30, 2003 which was repeated above and thus it is unclear which of the above elements the applicant's representative believes is missing. Furthermore, the saddle shaped support formed by the first conveyor 111 that is configured to be supplied by a sheet feeder with printed sheets (because it could receive sheets from the feeder 114 or any other feeder in a certain sequence astride and atop one another) is clearly above the conveying device 117 in the fashion of the present application and therefore the argument applied to Mueller et al. also does not apply to Osako et al.

In regard to the rejection of claims 1 and 3-4 under 35 U.S.C. 103(a) over Bryson et al., the arguments of the applicant's representative fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. However, in the interest of simplifying the issues for appeal the examiner hereby




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withdraws this rejection, as it is merely cumulative and not necessary for the rejections of the claims at issue.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

md
May 2, 2005

Conferees: 
Mark Deuble
Patrick Mackey 
Katherine Matecki 


PATRICK MACKEY
PRIMARY EXAMINER